



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

December 18, 2007

Dot A. Earl, Trustee
The Earl Family Trust Dated January 6, 1973



RE: General Notice Letter & 104 (e) Request for Information
Omega Chemical Corporation Superfund Site

Dear Ms. Earl:

The purpose of this letter is to provide you notice of The Earl Family Trust's potential liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, at the Omega Chemical Corporation Superfund Site (the "Site"), in Whittier, California. The Site includes the location of a former refrigerant/solvent recycling operation ("Omega Chemical") located at 12504 and 12512 Whittier Blvd. in Whittier, California, but the term "Site" (as used here) refers to both the former Omega Chemical property and the areal extent (i.e., plume) of contaminated groundwater emanating from the Omega Chemical property.

The United States Environmental Protection Agency ("EPA") is spending public funds to investigate and control releases or potential releases of hazardous substances, pollutants or contaminants at the Site. Under Sections 106(a) and 107(a) of CERCLA, commonly known as Superfund, Potentially Responsible Parties ("PRPs") may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for all costs incurred by EPA in responding to any release or threatened release at the Site. PRPs include current and former owners and operators of facilities at which hazardous substances were released into the environment, persons who arranged for the disposal of hazardous substances at a facility ("generators"), and persons who accepted hazardous substances for transport to a facility ("transporters").

EPA has evaluated information obtained through its investigation of the Site and has determined that the facility at 11862 Burke Street, Santa Fe Springs, California is located above the contaminated groundwater plume that originates at and extends approximately three miles downgradient of the Omega Chemical property. The Agency believes that the facility located at 11862 Burke Street, Santa Fe Springs, California is a source of hazardous substances which have come to be located in this groundwater plume and commingled with hazardous substances originating from the Omega Chemical property. As such, The Earl Family Trust is a PRP at the Site based on its status as the former owner of the facility located at 11862 Burke Street, Santa Fe Springs, California.

Omega Site Background

During a Site Assessment in 1995, EPA observed in excess of 3,000 drums at the Site in various stages of deterioration. Data gathered in 1988 and 1995 also indicated the presence of hazardous substances including but not limited to methylene chloride, tetrachloroethylene, trichloroethylene, and Freon 11 and 113, in the subsurface soils and groundwater at the Site. On May 3, 1995, EPA issued an Action Memorandum authorizing actions necessary to abate imminent and substantial endangerment at the Site, including securing the Omega Chemical property, conducting sampling, removing grossly contaminated equipment, structures, and debris, removing containerized wastes and disposing, stabilizing or treating grossly contaminated soils.

On May 9, 1995 and August 31, 1995, EPA issued Unilateral Administrative Orders (“UAOs”) to approximately 170 major generator PRPs, all of whom sent greater than 10 tons of hazardous materials to the Site, to perform removal activities at the Site. These major contributing parties thereafter formed a workgroup called the Omega Chemical Site PRP Organized Group, or “OPOG”, and completed removal activities as required. In September 1998, EPA proposed the Site for listing on the National Priorities List (“NPL”). The Site was placed on the NPL on January 19, 1999.

Currently, the 109 members of OPOG (the “Settling Defendants”) are performing work under a Partial Consent Decree which was entered by the District Court on February 28, 2001. Under this agreement, the Settling Defendants agreed to pay a portion of past costs and perform the following work at the Site:

- 1) implementation of a Remedial Investigation / Feasibility Study (“RI/FS”) for contamination in the vadose zone within the “Phase 1A area” (as described in the Partial Consent Decree) of the Site;
- 2) performance of an Engineering Evaluation and Cost Analysis (“EE/CA”) addressing groundwater contamination in the Phase 1A area;
- 3) implementation of the response action selected in EPA’s Action Memorandum at the conclusion of the EE/CA;
- 4) performance of a risk assessment addressing contamination within the Phase 1A area; and
- 5) installation of up to three groundwater monitoring wells at locations downgradient of the Phase 1A area and upgradient of the City of Santa Fe Springs water supply well 30R3.

In addition, EPA has been conducting an EPA Fund-lead groundwater RI downgradient of the Phase 1A area. A Fund-lead FS for a Site-wide groundwater remedy will follow the Fund-lead groundwater RI, and it will take into account the PRP-lead groundwater response action in

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the Phase 1A area. At the conclusion of the FS, a Site-wide groundwater remedy will be proposed and, after public comment, selected by EPA.

In August 2002, EPA issued General Notice Letters to approximately 100 additional major generator PRPs, all of whom sent 10 tons or greater of hazardous materials to the Site. EPA has encouraged these PRPs to initiate dialogue with OPOG concerning joining the established workgroup. EPA will amend the existing Partial Consent Decree to include any parties which join the established group.

Prior to signing the Partial Consent Decree, several OPOG members withdrew from the group and elected not to sign the settlement. They formed a new group that later became known as the Omega Small Volume Organized Group or “OSVOG.” On January 5, 2004, EPA issued a UAO to fifteen OSVOG members and three other recalcitrant parties. An Amended UAO was issued on July 2, 2004. The work required under the Amended UAO included the installation of groundwater wells and sampling downgradient from the former Omega Chemical property.

On October 28, 2003, EPA noticed approximately 300 *de minimis* parties at the Omega Site, each of which contributed 3 to 9.9 tons of hazardous materials to the Site. Approximately 170 *de minimis* parties accepted EPA’s settlement offer. The Administrative Order on Consent to resolve these parties’ potential liability at the Site was finalized on December 12, 2005.

General Notice

EPA is not extending a settlement offer or issuing an order for the performance of work to you at this time. The Agency anticipates issuing a Record of Decision to select a groundwater cleanup remedy within the next two to three years. At that point, EPA will initiate settlement discussions with you and all other PRPs at the Site for the performance of the Remedial Design/Remedial Action (“RD/RA”) for the groundwater remedy.

EPA encourages good faith negotiations between the PRPs and EPA, as well as among the PRPs. You may contact EPA to obtain the most current list of PRPs that have been sent General Notice letters for this Site. In addition, OPOG’s contact names and numbers are:

Keith F. Millhouse, Esq.
(805) 230-2280

Larry G. Gutteridge, Esq.
(213) 628-7131

Enclosed are three Fact Sheets about the Site. In addition, copies of site-related documents are located at EPA’s Regional Office in San Francisco and at the information repository listed below:

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Superfund Records Center
95 Hawthorne Street (4th Floor)
San Francisco, CA 94105
Ph: (415) 536-2000

Whittier Public Library
7344 S. Washington Avenue
Whittier, CA 90602
Ph: (562) 464-3450

Further information about the Site can be found on the following EPA web page:

<http://www.epa.gov/region09/omegachemical>

Also enclosed is an information sheet intended to inform small businesses of their rights under the Small Business Regulatory Enforcement Fairness Act (SBREFA) to comment to an Ombudsman about EPA enforcement activity. This information sheet also provides information on compliance assistance available to small businesses. We have included this information sheet without making a determination as to whether your business is a small business as defined by Section 222 of SBREFA or related provisions.

Please use the enclosed Primary Contact Designation Form to designate the most appropriate individual to receive all further correspondence on this matter on your behalf. We request that you mail us the completed form within thirty (30) days of your receipt of this letter.

We will continue to send future correspondence to you until we receive this form. The completed Primary Contact Designation Form should be mailed to:

Linda Ketellapper, SFD-7-5
U.S. Environmental Protection Agency
Superfund Division
75 Hawthorne Street
San Francisco, CA 94105

This notice letter does not affect or nullify any other legal obligations you may have regarding your facility. If you are engaged in clean-up or other activities under the direction of federal, state or local authorities, you should continue such activities as appropriate. Likewise, this notice letter has no effect on any obligations which you may have in a court of law.

Although this letter does not affect these other obligations, EPA hereby requests, by its authority under CERCLA Section 104(e), that you provide a written response reporting the status of all of those activities and obligations. The response should include a copy of all agreements and/or orders between you and other parties related to your facility and on-going activities and obligations. Your response should be made in writing and submitted to EPA within thirty (30)

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days of receipt of this letter. **It should be directed to Linda Ketellapper, the EPA Case Developer, at the address provided above.**

Information Request

In addition to the notice explained in this letter, EPA is also seeking your cooperation in providing information you may have about the Site, by responding to the enclosed Information Request (Enclosure B).

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to this Information Request.

Under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604(e), EPA has broad information gathering authority which allows EPA to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility.
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.
- (C) Information relating to the ability of a person to pay for or perform a cleanup.

Please note that your compliance with this Information Request is mandatory. Failure to respond fully and truthfully may result in enforcement action by EPA pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. §9604(e)(5). This statutory provision authorizes EPA to seek the imposition of penalties of up to \$32,500 per day of noncompliance. Please be further advised that provision of false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. §1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Some of the information EPA is requesting may be considered by you to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the timeframe noted above.

This request for information is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act because it is not an "information collection request" within the meaning of 44 U.S.C. §§3502(3), 3507, 3512, and 3518(c)(1). See, also 5 C.F.R. §§1320.3(c), 1320.4, and 1320.6(a). Furthermore, it is exempt from OMB review under the Paperwork Reduction Act because it is directed to fewer than ten persons. 44 U.S.C. §3502(4), (11); 5 C.F.R. §§1320.4 and 1320.6(a).

Instructions on how to respond to the questions are described in Enclosure A. Please return your written response to this request for information, signed by you or a duly authorized official of your company, within **thirty (30) calendar days** of receipt of this letter. Please direct your response to:

Linda Ketellapper, SFD-7-5
U.S. Environmental Protection Agency, Region IX
Superfund Division
75 Hawthorne Street
San Francisco, California 94105

Your response should include the appropriate name, address, and telephone number for the person to whom EPA should direct future correspondence in regard to this matter on behalf of your company.

If you have questions regarding this information request or general questions regarding the Site, please contact Linda Ketellapper at (415) 972-3104. If you have any technical questions regarding the Site, please contact Chris Lichens, the Remedial Project Manager, at (415) 972-3149. If you have any legal questions, you may contact Steve Berninger, Assistant Regional Counsel, at (415) 972-3909.

We appreciate and look forward to your prompt response to this information request.

Sincerely,



Kathleen Salyer
Chief, Site Cleanup Branch

cc: Karl Fingerhood, DOJ EES
Steve Berninger, EPA ORC
Linda Ketellapper, EPA
Christopher Lichens, EPA
Fred Schauffler, EPA
Sara Amir, DTSC
David Bacharowski, RWQCB
Larry Gutteridge, OPOG
Keith Millhouse, OPOG

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Enclosures:

- Enclosure A: Instructions and Definitions
- Enclosure B: 104(e) Information Request (Questions)
- U.S. EPA Fact Sheet: "Omega Chemical Superfund Site Update", September 2003
- U.S. EPA Fact Sheet: "Proposed Plan for Interim Groundwater Action", August 2005
- U.S. EPA Fact Sheet: "EPA Evaluates Indoor Air at Omega Chemical Site", November 2004
- Information Sheet, U.S. EPA Small Business Resources
- Primary Contact Designation Form. Please complete and return this form **within 30 days** of your receipt of this letter.

ENCLOSURE A: INSTRUCTIONS AND DEFINITIONS

Instructions:

1. Answer Each Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. When answering the questions in Enclosure B, please precede each answer with the corresponding number of the question and subpart to which it responds.
3. Number Each Document. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the question to which it corresponds.
4. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Information Request.
5. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
6. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to CERCLA Section 104(e) that you supplement your response to EPA.
7. Scope of Request. The scope of this request includes all information and documents independently developed or obtained by research on the part of your company, its attorneys, consultants or any of their agents, consultants or employees.
8. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§9604(e)(7)(E) and (F), and Section 3007(b) of RCRA, 42 U.S.C. §6927(b), and 40 C.F.R. §2.203(b). If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- a. clearly identify the portions of the information alleged to be entitled to confidential treatment;
 - b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
 - c. measures taken by you to guard against the undesired disclosure of the information to others;
 - d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
 - f. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.
 - g. To make a confidentiality claim, please stamp, or type, "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all nonconfidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.
 - h. All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.
9. Disclosure to EPA's Authorized Representatives. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. 2.310(h), even if you assert that all or part of it is confidential business information. The authorized representatives of EPA to which EPA may disclose information contained in your response are as follows:

Arctic Slope Regional Corp.
EPA Contract Number 68-R9-0101

Department of Toxic Substances Control/California
Environmental Protection Agency

Science Applications International Corporation
EPA Contract Number GS-10F-0076J

CH2M Hill, Inc.
EPA Contract Number 68-W-98-225

Any subsequent additions or changes in EPA contractors who may have access to your response to this Information Request will be published in the Federal Register.

This information may be made available to these authorized representatives of EPA for any of the following reasons: to assist with document handling, inventory, and indexing; or to assist with document review and analysis for verification of completeness; or to provide expert technical review of the contents of the response. Pursuant to 40 C.F.R. §2.310(h), you may submit comments on EPA's disclosure of any confidential information contained in your response by EPA to its authorized representatives along with the response itself, within the thirty (30) calendar day period in which the response is due.

10. Objections to Questions. If you have objections to some or all of the questions contained in the Information Request letter, you are still required to respond to each of the questions.

Definitions:

1. The term “you” or “Respondent” should be interpreted to include the addressee of this Information Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns and agents.
2. The term “person” shall include any individual, firm, unincorporated association, partnership, corporation, trust, joint venture, or other entity.
3. The term “waste” or “wastes” shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge.
4. The term “hazardous waste” shall have the same definition as that contained in Section 1004(5) of RCRA.
5. The term “hazardous substance” shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.

6. The term “release” has the same definition as that contained in Section 101(22) of CERCLA, and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including the abandonment or discharging of barrels, containers and other closed receptacles containing any hazardous substance or pollutant or contaminant.
7. The term “pollutant or contaminant” shall have the same definition as that contained in Section 101(33) of CERCLA and include any mixtures of such pollutants and contaminants with any other substance including petroleum products.
8. The term “materials” shall mean all substances that have been generated, treated, stored, or disposed of or otherwise handled at or transported to the Site including, but not limited to, all hazardous substances, pollutants or contaminants.
9. The term “documents” includes any written, recorded, computer generated or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.

ENCLOSURE B: QUESTIONS

1. State the full legal name, address, telephone number, position(s) held by and tenure of the individual(s) answering any of these questions on behalf of The Earl Family Trust Dated January 6, 1973 (the “Trust”) concerning the facility located at 11862 Burke Street, Santa Fe Springs, CA (the “Property”).
2. Identify the entity or individual who sold or otherwise transferred the Property to the Trust. Provide all documents evidencing such sale or transfer and all documents evidencing the Trust’s ownership of the Property (i.e., deed or other instrument of conveyance). As part of your response, identify the period of time during which the Trust owned the Property.
3. During the Trust’s ownership of the Property, did the Trust own the Property jointly with any other individuals or entities? If so, provide the name, address and phone number of each such joint owner and provide the periods of such joint ownership. In addition, provide all documents evidencing such joint ownership of the Property.
4. Identify the entity or individual to whom the Trust sold or otherwise transferred the Property. Provide all documents evidencing such sale or transfer of the Property (i.e., deeds, property sale agreements). As part of your response, identify the date on which the Trust transferred the Property.
5. Identify all prior owners of the Property from 1940 to the date the Trust acquired the Property, and provide the dates each owner owned the Property. Provide copies of all deeds, ownership records and any other documents evidencing each such owner’s interest in the Property.